

STATE OF GEORGIA

COUNTY OF CLAYTON

ORDINANCE NO. 2015-94

AN ORDINANCE TO AMEND *CODE OF CLAYTON COUNTY, GEORGIA*, AS AMENDED, SPECIFICALLY PART II, CHAPTER 86 “SUBDIVISIONS”, ARTICLE II “TREE PROTECTION”, SO AS TO DELETE SECTION 86-60 IN ITS ENTIRETY AND REPLACE WITH A NEW SECTION 86-60 TO BE ENTITLED “EXEMPTIONS”, TO INCLUDE LANGUAGE EXEMPTING COUNTY TRAIL AND PATHWAY PROJECTS; TO REPEAL CONFLICTING LAWS, ORDINANCES, AND RESOLUTIONS TO PROVIDE SEVERABILITY; TO PROVIDE FOR AN EFFECTIVE DATE OF THIS ORDINANCE; AND FOR OTHER PURPOSES.

BE IT ORDAINED BY THE BOARD OF COMMISSIONERS

OF CLAYTON COUNTY AND IT IS HEREBY ORDAINED

Section 1. The *CODE OF CLAYTON COUNTY, GEORGIA*, as amended, is hereby further amended by amending Part II, Chapter 86 “Subdivisions”, Article II “Tree Protection”, so as to delete Section 86-60 in its entirety and replace with a new Section 86-60 to be entitled “Exemptions”, to include language exempting County trail and pathway projects from the Tree Protection Ordinance, which shall read as follows:

“Sec. 86-60. - Exemptions.

The following developments are exempted from compliance with the clearing and tree provisions of these regulations:

- (a) *Single-family residential.* The removal of five or fewer under 30 inches diameter breast height on any single-family residential property, within a single calendar year, unless such action is subject to a building permit that would allow land disturbance.

However, no homeowner can remove trees within two years from the issuance of the certificate of occupancy for a residence when such trees have been preserved or planted by the developer or builder in order to meet the tree density requirements of this article.

- (b) *Private septic system and drainage [field]*. Upon proper documentation from the board of health noting that exemption is warranted, if and when the undisturbed radius cannot be achieved due to a necessary reserve line or absorption field.
- (c) *Rights-of-way*. The development of street rights-of-way or clear zones within a proposed subdivision or subdivision expansion provided that all other areas within such subdivision comply with the provisions of this article.
- (d) *County authorized*. State and county roadway projects.
- (e) *Trail/Pathways*. Projects designed and maintained under the Greenspace program of the Clayton County department of parks and recreation.
- (f) *Easements*. Utility easements for power lines, pipelines, etc.
- (g) *Grandfathered projects*.
 - (1) This article shall not apply to any portion of a property included within the limits of a valid land disturbance permit issued prior to the effective date of this article, provided that all time constraints relating to the permit are observed.
 - (2) In no event shall any grandfathered project be extended for more than 12 months from the date of enactment of this article.
- (h) *Horticulture*. Active horticultural operations, including:

- (1) All active plant or tree nurseries and botanical gardens only in relation to those trees which are being grown for relocation and continued growth in the ordinary course of business, or for some public purpose;
 - (2) All orchards of trees in active commercial operation;
 - (3) This exception shall not be interpreted to include timber-harvesting incidental to development of the land.
- (i) *Removal of disease or infestation.* Upon the advice of a certified arborist and/or the state forestry commission in accordance with commonly accepted forestry practices and a finding of tree disease or infestation, the removal of trees may be authorized to prevent the transmission of disease or infestation, to prevent the danger of these trees falling, or to prevent potential injury to life and property. The owner/developer, prior to removal of the diseased trees, shall notify the county arborist with the department of community development, identifying the location of the infested property, and shall submit the written finding of the state forestry commission.

Removed trees shall be replaced with species resistant to the particular disease or infestation, as appropriate.

- (j) *Zoning buffer areas.* Existing trees proposed to be retained and new trees proposed to be planted in order to meet the buffer requirements of the zoning ordinance [appendix A] or conditions of zoning approval shall not be considered in fulfilling the requirements of this article. Trees or other vegetation shall not be removed from a zoning buffer area except under the provisions as established by the zoning ordinance [appendix A].

(j) Notwithstanding the foregoing, all reasonable efforts shall be made to save specimen trees.”

Section 2. All laws, ordinances and resolutions, or parts thereof, which conflict with the provisions of this Ordinance are hereby repealed.

Section 3. If any part of this Ordinance shall be declared unconstitutional by the valid judgment of any court of competent jurisdiction, such unconstitutionality shall not affect the remainder of this enactment, and such remainder shall remain in full force and effect.

Section 4. This Ordinance shall become effective upon its approval by the Board of Commissioners.

SO ORDAINED, this the 21st day of April, 2015.

CLAYTON COUNTY BOARD OF COMMISSIONERS



JEFFREY E. TURNER, CHAIRMAN



GAIL B. HAMBRICK, VICE CHAIRMAN



MICHAEL EDMONDSON, COMMISSIONER



SONNA GREGORY, COMMISSIONER



SHANA M. ROOKS, COMMISSIONER

ATTEST:



SANDRA T. DAVIS, CLERK